

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JOHN CORRION,

Plaintiff,

v.

Case No. 2:09-CV-11863

DAVID L. MORSE, et. al.,

Defendants,

ORDER OF SUMMARY DISMISSAL

Plaintiff John Corrior, a state inmate currently incarcerated at the Bellamy Creek Correctional Facility in Ionia, Michigan, has filed a *pro se* civil rights complaint pursuant to 42 U.S.C. § 1983. Plaintiff is proceeding without prepayment of the filing fee in this action under 28 U.S.C. § 1915(a)(1). After careful consideration, the court summarily dismisses the complaint as duplicative of a previously filed civil rights complaint.

I. BACKGROUND

Plaintiff was convicted of solicitation to murder and of being a second-felony habitual offender in the Livingston County Circuit Court and was sentenced to 21 years, 10 months to 40 years in prison. Petitioner was previously convicted of assault with intent to do great bodily harm less than murder for assaulting his ex-wife in Livingston County Circuit Court. Plaintiff's solicitation to murder conviction was affirmed on appeal. *See People v. Corrior*, No. 278169, 2008 WL 4332096 (Mich. Ct. App. Sept. 23, 2008); *lv. den.* 759 N.W.2d 359 (2009). Plaintiff has filed a petition for a writ of habeas corpus

challenging his solicitation to murder conviction, pending before Judge David Lawson in the United States District Court for the Eastern District of Michigan.

Plaintiff now claims that Defendants have withheld transcripts and other materials that would assist him in obtaining relief from both of his criminal convictions. Plaintiff seeks monetary and injunctive relief. Plaintiff previously filed an identical lawsuit in the United States District Court for the Eastern District of Michigan against these defendants and involving the same claims, which was dismissed without prejudice by Judge Victoria A. Roberts. *See Corrion v. Morse*, No. 09-11404, 2009 WL 1086788 (E.D. Mich. Apr. 22, 2009).

II. STANDARD

Civil rights complaints filed by a pro se prisoner are subject to the screening requirements of 28 U.S.C. § 1915(e)(2). *Brown v. Bagerly*, 207 F.3d 863, 866 (6th Cir. 2000). Section 1915(e)(2) requires district courts to screen and to dismiss complaints that are frivolous, fail to state a claim upon which relief can be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2); *McGore v. Wigglesworth*, 114 F.3d 601, 604 (6th Cir. 1997). A complaint is frivolous and subject to sua sponte dismissal under § 1915(e) if it lacks an arguable basis in either law or fact. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). A plaintiff fails to state a claim upon which relief may be granted, when, construing the complaint in a light most favorable to the plaintiff and accepting all the factual allegations as true, the plaintiff undoubtedly can prove no set of facts in support of his claims that would entitle him to relief. *Sistrunk v. City of Strongsville*, 99 F.3d 194, 197 (6th Cir. 1996); *Kline v. Roberts*, 87 F.3d 176, 179 (6th Cir. 1996); *Wright v. MetroHealth Med. Ctr.*, 58 F.3d

1130, 1138 (6th Cir. 1995).

In addition, “a district court may, at any time, dismiss sua sponte a complaint for lack of subject-matter jurisdiction pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure when the allegations of a complaint are totally implausible, attenuated, unsubstantial, frivolous, devoid of merit, or no longer open to discussion.” *Apple v. Glenn*, 183 F.3d 477, 479 (6th Cir. 1999)(citing *Hagans v. Lavine*, 415 U.S. 528, 536-37 (1974)).

III. DISCUSSION

Plaintiff’s complaint is frivolous and subject to dismissal, because it is – with minor and inconsequential alterations – an exact duplicate of his previously dismissed civil rights complaint. See *McWilliams v. State of Colo.*, 121 F.3d 573, 575 (10th Cir. 1997). Repetitious litigation of virtually identical causes of action may be dismissed under the *in forma pauperis* statute as frivolous or malicious. *Id.*; see also *English v. Runda*, 875 F.2d 863, *1 (6th Cir. May 18, 1989).

Accordingly, IT IS ORDERED that the Plaintiff’s Complaint [Dkt.# 1] is DISMISSED with prejudice.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: June 30, 2009

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, June 30, 2009, by electronic and/or ordinary mail.

s/Lisa G. Wagner

Case Manager and Deputy Clerk
(313) 234-5522